

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

ZIFF DAVIS PERFORMANCE MARKETING,  
INC. f/k/a SALESIFY, INC.,

Plaintiff,

- against -

GREEN LEADS LLC,

Defendant.

Case No. 1:20-cv-11462

**COMPLAINT**

Plaintiff Ziff Davis Performance Marketing, Inc., formerly known as Salesify, Inc., (“ZDPM”), as and for its complaint against Defendant Green Leads LLC (“Green Leads”) alleges as follows:

**Nature of the Action**

1. Claiming it has suffered business hardship as a result of the COVID-19 pandemic, Green Leads has failed to pay for the valuable “leads” services that ZDPM has provided, interrupted and without payment, to Green Leads. Green Leads sole excuse: “We have had revenue drop due to the virus and are focusing only on survival. Sorry.”

2. Accordingly, this is an action to recover money owed by Green Leads in the amount of no less than \$184,509 for services rendered by ZDPM pursuant to a written contract.

3. Green Leads provides business-to-business marketing services and hired ZDPM to help with providing marketing lead generation services for Green Leads’ clients.

4. ZDPM provided lead generation services for Green Leads as requested and in accordance with the parties’ contract, and delivered invoices to Green Leads, but Green Leads

failed to satisfy its obligations as reflected in the past-due invoices in the aggregate amount of \$184,509.

5. ZDPM has fully performed all of its obligations under the parties' contract. Green Leads is liable to ZDPM under the unambiguous terms of the parties' contract and as an account stated.

6. Alternatively, Green Leads is liable to ZDPM for the services ZDPM provided because it would be inequitable for Green Leads to retain the benefit of the services provided by ZDPM without compensating ZDPM for those services.

### **Parties**

7. ZDPM is a Delaware corporation with its principal place of business in New York County, New York.

8. Green Leads is a New Hampshire limited liability company with its principal place of business located at 59 Colby Corner, East Hampstead, New Hampshire, 03826. Green Leads was organized under the laws of New Hampshire in 2016, and registered to do business in Massachusetts in 2019.

9. Upon information and belief, Green Leads is the successor to Green Leads, LLC ("**Former Green Leads**") which was a Massachusetts limited liability company with its principal place of business in Andover, Massachusetts that executed a contract with ZDPM while located in Massachusetts.

### **Jurisdiction and Venue**

10. The Court has original jurisdiction over this action under 28 U.S.C. § 1332 because ZDPM and Green Leads are citizens of different states, and the amount in controversy exceeds \$75,000, exclusive of interests and costs.

11. The Court has personal jurisdiction over Green Leads. Green Leads is registered to do business in the State of Massachusetts, and has conducted continuous and systematic business in Massachusetts. The contract between ZDPM and Green Leads' predecessor, Former Green Leads, at issue in this action was made and executed in Massachusetts and Green Leads received the services provided by ZDPM in Massachusetts.

12. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) because a substantial part of the events giving rise to the claims occurred in this District and Green Leads is subject to the Court's personal jurisdiction with respect to this action.

### **Statement of Facts**

13. ZDPM is a full service demand generation company offering business-to-business lead generation services. ZDPM helps sales and marketing departments of enterprise software, hardware, and information technology services firms identify and run highly targeted campaigns to their most relevant sales prospects worldwide.

14. Green Leads offers marketing services to technology companies by delivering pay-for-performance demand lead generation services.

15. Green Leads' predecessor, Former Green Leads, engaged ZDPM to provide marketing leads for its clients. Former Green Leads entered into a Mutual Partnership Agreement dated September 3, 2014 (the "**Agreement**") with ZDPM.

16. According to the Massachusetts Secretary of State's website, Former Green Leads was involuntarily dissolved in 2017. ZDPM did not receive notice of any dissolution of Former Green Leads. ZDPM provided services as requested and without interruptions to either Green Leads or Former Green Leads consistent with the Agreement. In all following references, "Green Leads" refers collectively to Green Leads and Former Green Leads.

17. Pursuant to the Agreement, Green Leads executed work orders (also referred to as “insertions orders”) to request services from ZDPM. Those work orders specified the number of leads Green Leads needed from ZDPM for Green Leads’ clients, details of the campaign for which the leads were intended, the deadline for ZDPM to provide the leads requested, and the compensation rate for each lead to be provided by ZDPM. Consistent with the Agreement, ZDPM would then issue invoices to Green Leads for payment. Under the Agreement, Green Leads agreed to pay ZDPM within 30 days from the date of invoice received from ZDPM.

18. Between October 2017 and January 2020, ZDPM provided services for Green Leads as requested and in accordance with the Agreement. ZDPM sent Green Leads nine invoices for the services provided by ZDPM. Green Leads never objected to any of ZDPM’s invoices, and, in fact, admitted the work was performed and the claimed amounts are due and owing to ZDPM.

19. After failing to pay amounts when due, in February 2020, Green Leads offered to pay the outstanding amounts owed to ZDPM in installments. ZDPM agreed to Green Leads’ payment schedule proposal, subject to documentation to be signed by the parties. Green Leads refused to sign any agreement memorializing the payment schedule that Green Leads proposed, but, nonetheless, acknowledged the amounts owed by it and agreed to make payments as proposed. Green Leads, however, failed to make any payment Green Leads said it would. Green Leads has failed to pay the \$184,509 owed to ZDPM for the services ZDPM provided through January 2020.

20. Despite ZDPM’s demands for payment of the outstanding balance, ZDPM has not received the money it is owed from Green Leads.

**COUNT I**  
**(Breach of Contract)**

21. The Agreement is a valid, binding, and subsisting agreement between ZDPM and Green Leads.

22. Pursuant to the Agreement, Green Leads agreed to pay ZDPM within 30 days' from Green Leads's receipt of an invoice from ZDPM for the services provided by ZDPM.

23. ZDPM fulfilled all of its obligations under its Agreement with Green Leads, including providing marketing leads and issuing invoices.

24. Green Leads failed to pay \$184,509 owed to ZDPM despite due demand therefor.

25. By reason of the foregoing, Green Leads is in breach of the Agreement and, ZDPM has been damaged in the amount of no less than \$184,509.

**COUNT II**  
**(In the alternative, Account Stated)**

26. ZDPM has rendered invoices to Green Leads in the ordinary course.

27. Green Leads never objected to any of those invoices.

28. The unpaid invoices constitute an account stated, and upon such, a balance of \$184,509 is due to ZDPM from Green Leads.

29. Green Leads has failed to pay the \$184,509 owed to ZDPM despite due demand therefor.

30. By reason of the foregoing, there is justly due and owing from Green Leads to ZDPM the sum of \$184,509.

**COUNT III**  
**(In the alternative, Unjust Enrichment)**

31. Substantial benefits have been conferred upon Green Leads by ZDPM through Green Leads' receipt of services provided by ZDPM under the Agreement. Green Leads knowingly and willingly accepted and enjoyed these benefits.

32. Green Leads either knew or should have known that the services rendered by ZDPM were given and received with the expectation that ZDPM would be compensated consistent with the terms of the Agreement.

33. ZDPM provided the services to Green Leads consistent with the Agreement. It would be inequitable for Green Leads to retain the benefit of the services provided by ZDPM without compensating ZDPM for those services.

34. Green Leads's acceptance and retention of these benefits under the circumstances alleged herein make it inequitable for Green Leads to retain the benefits without payment of the value to ZDPM.

35. Green Leads is liable to ZDPM as a successor in interest to Former Green Leads because Green Leads continued the business of Former Green Leads, merged with Former Green Leads, and/or assumed the liabilities of Former Green Leads.

36. ZDPM is entitled to recover from Green Leads not less than \$184,509 for the value of services ZDPM provided to Green Leads.

**PRAYER FOR RELIEF**

**WHEREFORE**, ZDPM demands judgment against Green Leads as follows:

- a) For judgment in ZDPM's favor finding Green Leads breached the Agreement.
- b) For money judgment in favor of ZDPM for damages for Green Leads' breach of the Agreement in an amount not less than \$184,509.

- c) For an award of pre- and post-judgment interest against Green Leads; and
- d) For such other and further relief as the Court deems just and equitable.

Dated: New York, New York  
August 3, 2020

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